

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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HUGO APARICIO,

Plaintiff,

v.

RENEE BAKER, et al.,

Defendants.

Case No. 3:13-cv-00677-MMD-WGC

ORDER

The Court denied plaintiff's emergency motion for a preliminary injunction (dkt. no. 4) regarding the medical care that plaintiff received at Ely State Prison. Order (dkt. no. 3). Plaintiff has filed a motion for reconsideration (dkt. no. 8). Nothing in the motion would cause the Court to depart from its earlier ruling. Furthermore, plaintiff now is incarcerated at the Northern Nevada Correctional Center. Any injunctive relief that the Court could order defendant, the warden of Ely State Prison, to provide would be moot.

The Court also directed plaintiff to file a complaint, which he had admitted he did not file to circumvent the administrative exhaustion requirement of 42 U.S.C. § 1997e(a). Order (dkt. no. 8). The Court also gave plaintiff additional time to file the complaint. Order (dkt. no. 9). Plaintiff has not filed a complaint within the allotted time. A complaint is required to commence an action properly. Fed. R. Civ. P. 3. Consequently, the court will dismiss this action.

It is therefore ordered that plaintiff's motion for reconsideration (dkt. no. 8) is denied.


1 It is further ordered that plaintiff's application to proceed *in forma pauperis* (dkt.  
2 no. 1) is granted. Plaintiff shall not be required to pay an initial partial filing fee.  
3 However, even though the Court is dismissing this action, the full filing fee must still be  
4 paid pursuant to 28 U.S.C. § 1915(b)(2).

5 It is further ordered that, pursuant to 28 U.S.C. § 1915(b)(2), the Nevada  
6 Department of Corrections shall pay to the Clerk of the United States District Court,  
7 District of Nevada, 20% of the preceding month's deposits to plaintiff's account (inmate  
8 #80181), in the months that the account exceeds \$10.00, until the full \$350 filing fee has  
9 been paid for this action. The Clerk shall send a copy of this order to the finance division  
10 of the Clerk's office. The Clerk shall also send a copy of this order to the attention of  
11 the chief of inmate services for the Nevada Department of Corrections, P.O. Box 7011,  
12 Carson City, NV 89702.

13 It is further ordered that this action is dismissed without prejudice for plaintiff's  
14 failure to file a complaint. The Clerk of the Court shall enter judgment accordingly.

15 It is further ordered that an appeal from the dismissal of this action would not be  
16 taken in good faith.

17 DATED THIS 22<sup>nd</sup> day of April 2014.  
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21 MIRANDA M. DU  
22 UNITED STATES DISTRICT JUDGE  
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